IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.3007 OF 2006

Eldred D'Mello & Anr. ...Petitioners.
Vs.
St. Anthony's Homes Co-operative Society Ltd. & Ors. ...Respondents.

....

Mr. K. J. Presswala with Mr. S. D. Muley for the Petitioners.
Mr. Jokhim Reis with Ms. M. Gaikwad for Respondent Nos.1, 4, 6, 7, 8, 9, 11 and 12.
Mr. A.A. Joshi for Respondent Nos.2 and 5.
Ms. Mamata Sadh, AGP for Respondent No.13.

.....

CORAM : DR.D.Y.CHANDRACHUD, J.

December 7, 2006.

P.C.

The Petition is directed against an interlocutory order passed by the Co-operative Appellate Court. Elections have already been held. The elections are challenged in the proceedings before the Co-operative Court which are pending. The Co-operative Appellate Court has furnished reasons for not interdicting the elected office bearers of the Co-operative Housing Society from exercising their rights at the interim stage. Though an attempt has been made on behalf of the Petitioners to submit that the provisions of the Bye-law 50 will override Bye-law 44, it is not appropriate for the Court at the present stage to entertain the

submission. The Co-operative Appellate Court has noted that the nomination papers had not been rejected. This is obviously a prima facie finding at the interlocutory stage. The Co-operative Court will adjudicate upon the rival contentions on merits when it decides the dispute finally. The interference of this Court at the interlocutory stage is not warranted. The observations contained in the impugned order of the Co-operative Appellate Court shall not come in the way of the final disposal of the dispute by the Co-operative Court on merits. The petition is accordingly dismissed. The Co-operative Court will endeavour to expeditiously decide the dispute consistent with the exigencies of work.

.....